

 <b>EXECUTIVE – 5<sup>th</sup> January 2017</b>		<b>Agenda Item No.</b>  <h1 style="text-align: center;">6</h1>
<b>Title</b>	Consultation on draft Community Infrastructure Levy (CIL) Charging Schedule	
<b>For further information about this report please contact</b>	David Butler David.butler@warwickdc.gov.uk Strategic Economic Development Officer 01926 456017	
<b>Wards of the District directly affected</b>	All	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Full Council 28 <sup>th</sup> Jan 2015, Minute Number 67 Executive 4 <sup>th</sup> June 2013, Item 4	
<b>Background Papers</b>	BNP Paribas Viability Report (Update) – 2016 BNP Paribas Viability Report – 2015 BNP Paribas Report - 2013	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	Yes
<b>Included within the Forward Plan? (If yes include reference number)</b>	Yes (ref 832)
<b>Equality Impact Assessment Undertaken</b>	Yes

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive	08/12/16	Bill Hunt
Head of Service	08/12/16	Tracy Darke
CMT	08/12/16	Chris Elliott/Bill Hunt/Andy Jones
Section 151 Officer	08/12/16	Mike Snow
Monitoring Officer	08/12/16	Andy Jones
Finance	08/12/16	Mike Snow
Portfolio Holder(s)	08/12/16	Cllr Stephen Cross
<b>Consultation &amp; Community Engagement</b>		
Consultation on the initial Preliminary Draft Charging Schedule (PDCS) took place in June 2013. This report proposes a further public consultation on the refreshed Draft Charging Schedule.		
<b>Final Decision?</b>	No	
<b>Suggested next steps (if not final decision please set out below)</b>		
Once consultation has taken place the conclusions and final decision will be brought before Full Council, prior to submission to the Planning Inspectorate.		

## 1. **Summary**

- 1.1 This report requests approval of the refreshed Community Infrastructure Levy (CIL) Draft Charging Schedule prior to public consultation.

## 2. **Recommendations**

- 2.1 That Executive notes the CIL Viability Refresh Report, prepared for the Council by BNP Paribas, attached as Appendix 1.
- 2.2 That Executive approves the CIL Draft Charging Schedule, as set out at paragraph 3.4 and shown in full in Appendix 1, for publication under Regulation 16 of the CIL Regulations 2010 to enable a four week period of consultation to commence, no later than 13<sup>th</sup> January 2017.
- 2.3 That Executive delegates authority to the Head of Development Services, in consultation with the Development Portfolio Holder, to make minor changes to the CIL Draft Charging Schedule and associated documents following the consultation period, prior to submission to Full Council.
- 2.4 That Executive notes that after the consultation has taken place and any subsequent amendments have been made, the CIL Draft Charging Schedule will be brought before Full Council, prior to submission to the Secretary of State.
- 2.5 That Executive notes that Member briefing sessions will be offered during the consultation period to further explain the role of CIL alongside Section 106 agreements in providing funding for Infrastructure.

## 3. **Reasons for the Recommendations**

- 3.1 The Council is committed to introducing a CIL Charging Schedule which, in addition to other funding mechanisms such as Section 106, will support the delivery of the infrastructure required for the level of growth proposed in the Local Plan. It is intended to complement rather than replace other funding streams and to promote development rather than hinder it.
- 3.2 The Council consulted on a Preliminary Draft Charging Schedule (PDCS) in June 2013. A summary of the consultation on the PDCS has been prepared, along with responses to the points made (see Appendix 2) and was brought before Full Council on 28 Jan, 2015. After the 2013 consultation was undertaken the Council reviewed the CIL viability study to ensure the viability evidence was up to date (reflecting for instance increased residential sales values and increased build costs), concluding that the originally drafted rates were still applicable. This Draft Charging Schedule was subsequently consulted upon in January 2015, with the intention of bringing adoption forward in tandem with the Local Plan.
- 3.3 However, the progress of preparing the Council's finalised CIL submission was subsequently halted by delays in the Local Plan. As such, the Draft Charging Schedule had fallen out of date and a viability refresh was commissioned to ensure the evidence remains robust and up-to-date. This refreshed Draft Charging Schedule is shown in Appendix 1. The charges within this draft schedule would be index linked in accordance with regulation 40 of the 2010 CIL Regulations.

3.4 The Viability Refresh was prepared on behalf of the District Council by BNP Paribas. The refresh was conducted using the same industry-standard methodology as the original 2013 Viability Study; testing charging models against both hypothetical developments and a sample of live strategic sites, ensuring that the level of CIL proposed is demonstrably viable. The Key Findings of the report (Appendix 1, Section 1.5-1.6, pages 3-4) detail the capacity to absorb CIL charges in the range of possible development types, and these findings are presented in table 1.6.1 (Appendix 1, page 5), reproduced below:

Type of development	Zones B & D (much of Leamington and high value rural)	Zone C (Kenilworth)	Zone A (Warwick, East of Leamington and lower value rural)
Residential	£190-£200	£140	£70
Strategic residential	£50-£60	£25	Nil
Retail – prime Leamington	£65	Nil	Nil
Convenience based supermarkets, superstores and retail parks	£105		
Student housing	£100		
Hotels	Nil		
Offices	Nil		
Industrial and warehousing	Nil		
D1 and D2 uses	Nil		

3.5 It should be noted that the proposed charges in the Draft Charging Schedule (DCS) are less than the maximum possible capacity for developments to absorb. It is important that the CIL rates are set at such a rate that they do not force developments to become unviable. The CIL regulations state that in setting its CIL rate the Council must:

*"... aim to strike what appears to the charging authority to be an appropriate balance between:*

- *The desirability of funding CIL and the actual and expected costs of infrastructure required to support development and*
- *The potential effects of the imposition of CIL on the economic viability of development across its area."*

3.6 Members will note that there are some changes to the proposed DCS when compared to the one consulted upon in 2015. Critically, the charge considered to be viable level to be levied on strategic sites has reduced. This is primarily due to an increase in assumed underlying development costs. For example, the viability model includes contributions of £13,000 section 106 payments per dwelling and £12,000 on-site infrastructure costs per dwelling. As noted earlier, CIL is complementary to other funding streams such as s106 and the viability assessment is obliged to take these into account when assessing what might constitute a viable levy. It should be noted that by making an allowance for Section 106 contributions and onsite infrastructure provision, the Council can continue to use other forms of funding infrastructure alongside CIL. This enables a flexible and pragmatic approach to be used to infrastructure funding and ensures that the approach is not over-reliant on CIL.

- 3.7 To adopt a CIL Charging Schedule, we will need to demonstrate that there is a funding gap which exceeds the likely receipts from other sources. This will be set out in a live and evolving document called a Regulation 123 List. The list does not require consultation, and will be refined prior to submission to Full Council in April. The Regulation 123 list is drawn from the Infrastructure Delivery Plan (Appendix 3) which was subject to the Local Plan Examination in Public that ended in December 2016.
- 3.8 Officers will carefully consider the representations made in relation to the CIL Draft Charging Schedule consultation. As part of this, officers will consider whether any amendments are required to support the soundness of the Draft Charging Schedule.
- 3.9 In order to fully brief all members, a short series of workshops will take place in February that will explore the role of CIL, its relationship to other funding streams and its purpose in helping to deliver vital infrastructure.

#### 4. **Policy Framework**

- 4.1 **Fit for the Future** – The adoption of CIL will allow for the delivery of the infrastructure the District requires. It is therefore closely aligned with the Council’s vision of the District as a great place to live, work and visit.
- 4.2 CIL will directly impact on the key strand of money - achieving and maintaining a balanced budget, by covering the funding deficit in infrastructure projects.
- 4.3 **Impact Assessment:** the Consultation will be undertaken in line with the Council’s Statement of Community Involvement (SCI) 2016 approved by Executive in January 2016. The SCI specifically seeks to ensure that all relevant sectors of the community are consulted. The Local Plan has been subject to an equalities impact assessment which assessed the implications of consultations on equalities.

#### 5. **Budgetary Framework**

- 5.1 The costs of conducting the consultation and reviewing the responses are covered within the existing budget framework.
- 5.2 Once submitted to the Secretary of State, an Inspector will be appointed and a short Examination in Public arranged. There will be costs associated with this such as room hire, but these will be met from existing budgets. However, should a significant additional cost be identified as part of this process a further report will be brought to Executive.
- 5.3 As referred to in Section 3, the adoption of CIL is an important mechanism to generate funding towards many of the infrastructure costs resulting from the Local Plan, with these items being included in the Regulation 123 list. It will be noted that the CIL has to be calculated on the basis of scheme viability, this being a substantial part of the attached study by BNP. CIL will not fund the entire 123 List, which will mean that the relevant authorities will need to seek alternative funding to supplement it.

## **6. Risks**

- 6.1 The government is currently preparing a Housing White Paper that will address CIL issues. There is a risk that this progresses into legislation and provides alternate, differing advice that renders the Charging Schedule sub optimal. However, the timescales for any legislation coming out from the White Paper due to be announced in January 2017 is uncertain whilst the risks of not having a CIL Charging Schedule in place are increasing as Section 106 contributions are becoming less reliable and more challenging to secure. If the White Paper introduces significant changes to the direction the Council is taking, then a further report will be submitted to Executive.
- 6.2 Should CIL not be adopted, there is a risk that the significant growth expected within the District will not contribute fully to the infrastructure that is needed (for example, the development spike likely to follow the release of Green Belt land with the adoption of the Local Plan). This would leave a financial deficit that would need to be met from other sources, or not be met at all.

## **7. Alternative Option(s) considered**

- 7.1 The Executive could choose not to pursue a CIL Charging Schedule or could choose to delay the consultation process on the Draft Charging Schedule. The former course of action would undermine the options the Council has to providing the funding needed to deliver the Infrastructure Delivery Plan. This is particularly important in the context of the CIL regulations which prohibit the pooling of more than 5 Section 106 contributions after 1<sup>st</sup> April 2015.

## **8. Background**

- 8.1 The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and is a tariff system that enables local authorities to make a charge on most forms of new development to fund infrastructure needed to support development. The CIL Regulations came into effect in April 2010 and minor amendments were made to the Regulations in April 2011. Further Regulations were published during 2012.
- 8.2 CIL is a charge on new development; it is charged per square metre on net additional floor-space of development. CIL is not charged on affordable housing and developments used for charitable purposes. The amount payable will be set at the time planning permission is granted and payment will be linked to the commencement of development. Larger amounts will be payable in instalments over fixed time periods.
- 8.3 CIL is intended to complement rather than replace other funding streams and is intended to promote development rather than hinder it. Its main advantages are that:
- It is modest representing around 2-5% of total development costs and is not charged on types of development that cannot sustain it.
  - It is a fixed, non-negotiable charge and is therefore transparent and predictable.
  - It is less time-consuming and complicated than Section 106 planning obligations, with less need for protracted negotiations with applicants and the drawing up of legal agreements (although these will still be required to secure affordable housing and addressing onsite mitigation).

- Local communities will be able to influence how a proportion of CIL receipts are spent in their areas, so that communities can benefit from development in their area. In areas where a Neighbourhood Plan is in place, 25% of CIL receipts arising from developments in that area will be controlled by local neighbourhoods. Elsewhere, neighbourhoods will control 15% of CIL receipts relating to developments in each area.

8.4 Unlike funding from Section 106 agreements, CIL funds can be spent on a wide range of infrastructure to support development without the need for a direct geographical or functional relationship with the development. Planning obligations / Section 106 agreements will still be used, but in a more focused way to directly provide both 'off-site' infrastructure, through S106 contributions, and 'on site' improvements through planning conditions to mitigate the direct impact of the development proposed (e.g. landscaping, access roads).

8.5 Under CIL, developers can still be required to directly provide both 'offsite' infrastructure, through Section 106 contributions, and 'on site' improvements through planning conditions to mitigate the direct impact of the development proposed (e.g. landscaping, access roads).